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**AUDIT OF WENDOVER FUNDING'S LOAN-SERVICING  
CONTRACTS**

Audit Report No. 99-008  
January 25, 1999



**OFFICE OF AUDITS**

**OFFICE OF INSPECTOR GENERAL**

**DATE:** January 25, 1999

**TO:** Michael J. Rubino, Jr.  
Associate Director, Acquisition Services Branch  
Division of Administration



**FROM:** Sharon M. Smith  
Director, Field Audit Operations

**SUBJECT:** *Audit of Wendover Funding's Loan-Servicing Contracts* (Audit Report No. 99-008)

This report presents the results of the Office of Inspector General's (OIG) audit of Wendover Funding's loan-servicing activities under Resolution Trust Corporation (RTC) contracts 783-94-0125 and 713-94-0250. In an October 9, 1997 memorandum, you requested the OIG to audit Wendover's loan-servicing activities because of concerns regarding Wendover's lack of cooperation in resolving issues identified during RTC and Federal Deposit Insurance Corporation (FDIC) reviews.<sup>1</sup> Specifically, your letter stated that Wendover did not provide (1) supporting documentation for fees charged and expenses reimbursed and (2) a complete accounting of funds due to the FDIC. Based on follow-up discussions with your staff, we agreed to audit income, expenses, and servicing fees on contracts 783-94-0125 and 713-94-0250.

## **BACKGROUND**

The RTC's Newport Beach and Valley Forge offices awarded contracts 783-94-0125 and 713-94-0250, respectively. When the RTC's Valley Forge office closed, contract 713-94-0250, which started in November 1994, was transferred to the FDIC's Hartford office. In May 1997, it was transferred from Hartford to the FDIC's Irvine office. When the RTC's Newport Beach office closed, contract 783-94-0125, which started in May 1994, was transferred to the FDIC's Irvine office. The contract expired in June 1997 and the Irvine office awarded Wendover a new contract, 97-00422-CEB, to continue servicing the loans that were under contract 783-94-0125. As of July 1, 1998, Wendover was servicing 6,507 loans with a total principal balance of \$780.2 million under contracts 713-94-0250 and 97-00422-CEB. However, the FDIC owned only 135 of those loans in full and partially owned 31 participation loans. The remaining 6,341 loans were loans serviced for others (LSFO) that belonged to investors. For some of the LSFO and participation loans, the FDIC was entitled to servicing fees from the investors as specified by written loan-servicing agreements. Table 1 shows the number and type of loans that Wendover was servicing under the two contracts.

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<sup>1</sup>The RTC ceased operations on December 31, 1995, and the FDIC assumed the RTC's responsibilities.

**Table 1: Loans Serviced by Wendover under FDIC Contracts As of July 1, 1998**

<b>Loan Type</b>	<b>Number of Loans</b>	<b>Percentage of Total Loans</b>	<b>Principal Balance</b>	<b>Percentage of Total Balance</b>
LSFO (REMIC) <sup>a</sup>	4,865	74.8	\$697,956,000	89.5
LSFO <sup>b</sup>	1,476	22.7	68,432,000	8.8
Split participation	31	0.5	2,517,000	.3
Wholly owned	135	2.0	11,342,000	1.4
<b>Totals</b>	<b>6,507</b>	<b>100.0</b>	<b>\$780,247,000</b>	<b>100.0</b>

<sup>a</sup>For real estate mortgage investment conduit (REMIC) investor-owned loans, Wendover remitted principal and interest collections to a trustee for further distribution to investors.

<sup>b</sup>For non-REMIC investor-owned loans, Wendover remitted principal and interest collections directly to investors.

Source: Wendover Funding's loan-servicing system report as of July 1, 1998.

The loan-servicing contracts established procedures for Wendover to remit income and to be reimbursed for asset-related expenses allowed under the contracts. The contracts also established Wendover's loan-servicing, loan-in-foreclosure, and loan-transfer-out fees. RTC Circular 4310.4, *Standardized Servicer Remittance Package*, dated September 21, 1994, outlined the monthly reports and supporting documentation that loan servicers were required to provide to the FDIC.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The objectives of the audit were to determine whether Wendover (1) accurately and timely remitted all income and (2) claimed only allowable and adequately supported asset-related expenses and loan-servicing fees. To accomplish the objectives, we interviewed personnel in the FDIC's

- Division of Finance (DOF) in Dallas, Texas, who recorded Wendover's income remittances and asset-related expense and servicing-fee payments under the contracts;
- Division of Administration (DOA) in Irvine, California, who administered the contracts during the period covered by our audit;
- Division of Resolutions and Receiverships (DRR) in Irvine, California, who provided oversight of Wendover's loan-servicing activities, which included reviewing monthly loan-servicing activity reports, invoices, and supporting documentation; and
- DRR, Office of Internal Review in Washington, D.C., who reviewed some aspects of Wendover's loan-servicing activities under contract 783-94-0125.

We also interviewed the president of the Mortgage Project Group in Irvine, California, which had a contract with the FDIC to provide property management and marketing services. Under the contract, the Mortgage Project Group was responsible for managing and selling real-estate

collateral from foreclosed loans. It also coordinated with the trustee and investors on a real estate mortgage investment conduit (REMIC) loan portfolio and supported the FDIC's efforts to sell loan portfolios by reconciling expenses and principal and interest advances. Finally, we interviewed Wendover representatives at their offices in Greensboro, North Carolina.

We reviewed the contracts and monthly loan-servicing reports, including remittance reports, wire confirmations, invoices, and supporting documentation. For contract 783-94-0125, we selected the last 3 months of the contract period—April 1997 through June 1997. For contract 713-94-0250, we selected the last 3 months—February 1997 through April 1997—that the contract was managed by the FDIC's Hartford office before being transferred to the Irvine office. Those two contracts included 17,453 loans with a \$1.2 billion total principal balance during the sample periods. We also reviewed DRR invoice exception logs, DRR and DOF site visit and contractor oversight reports, and previous OIG audit reports related to Wendover's loan-servicing activities.

Although we reviewed Wendover's servicing fees and expenses for the REMIC loans, we did not review fund advances or adjustments recorded by Wendover for those loans because of the Mortgage Project Group's work. We also did not review the timeliness of foreclosure actions on loans serviced by Wendover because the FDIC's Atlanta office had an ongoing project to review foreclosures.

We did not evaluate Wendover's system of internal controls related to its loan-servicing activities under the FDIC contracts. We concluded that the audit objective could be met more efficiently by conducting substantive tests rather than placing reliance on the internal control system. The OIG conducted the audit from December 1997 through October 1998 in accordance with generally accepted government auditing standards.

## **RESULTS OF AUDIT**

Wendover remitted income accurately and timely and generally claimed only servicing fees and asset-related expenses that were supported and allowable under contracts 783-94-0125 and 713-94-0250 for the 3-month periods that we reviewed for each contract. Although Wendover charged unallowable servicing fees for some loans that had been delinquent for several years, the FDIC recovered those fees before the completion of our audit. In addition, because neither Wendover nor the FDIC had copies of the servicing agreements, we generally could not determine whether Wendover charged the correct servicing fees for LSFO and participation loans.

### **Wendover Claimed Servicing Fees on Delinquent FDIC Loans**

Wendover charged unallowable servicing fees on at least five FDIC loans that were delinquent before the RTC transferred them to Wendover for servicing. For example, one loan with a principal balance of \$50,490 that Wendover began servicing under contract 783-94-0125 in April 1995 had been delinquent since May 1990. Moreover, in March 1995, before the RTC transferred the loan to Wendover, it foreclosed on the loan and assumed ownership of the collateral, which the FDIC subsequently sold on July 2, 1996. Wendover charged servicing fees

and paid property-inspection expenses for about 2 years before preparing a case to write off the loan. Based on the monthly loan-servicing reports, Wendover billed about \$335 for unnecessary property inspections and servicing fees during the 2-year period. However, DRR officials addressed the issue of servicing fees on delinquent loans with Wendover during a November 1997 site visit, and Wendover refunded about \$6,000 in servicing fees to the FDIC during the course of our audit. Accordingly, we are not recommending that the FDIC take any additional action regarding this issue.

### **Servicing Agreements for LSFO and Participation Loans Not Provided to Wendover**

Neither Wendover nor the FDIC had copies of servicing agreements for LSFO and participation loans under contracts 783-94-0125 and 713-94-0250. Accordingly, we could not verify that the servicing fees being charged to the investors were accurate. The FDIC was entitled to and received the servicing fees that Wendover charged to investors because the FDIC was the primary servicer for the loans. The servicing agreements for LSFO and participation loans were typically between savings and loan institutions, where one institution sold all or a percentage of a loan portfolio to another institution but retained the servicing rights. The two institutions would negotiate a purchasing and servicing agreement that specified the responsibilities of the two parties and the servicing fees to be paid. When institutions involved in those agreements failed, the RTC, as receiver, assumed control of the loans and/or servicing rights owned by the failed institutions.

Wendover officials stated that the RTC should have provided the purchasing and servicing agreements for those loans when the loans were assigned to Wendover. Wendover recognized that the servicing agreements were missing and in late 1995, proposed to perform a file scrub to validate the loan-servicing information provided by the RTC. However, in November 1995, the FDIC rejected the proposal because it did not have adequate resources to oversee the project. Because it did not have the servicing agreements, Wendover collected fees based on the service-fee data in the automated loan-servicing system that it inherited from the previous servicers.

Because neither the FDIC nor Wendover had copies of the loan-servicing agreements, we contacted selected investors who purchased some of the loans to determine if they could provide the servicing agreements. Only 6 of the 25 investors that we contacted provided copies of the servicing agreements applicable to their loans. For five of the six agreements, Wendover was accurately collecting servicing fees from the investors and remitting those fees to the FDIC. For the sixth agreement, Wendover was not withholding specified servicing fees (.375 percent per year or .03125 percent per month of the principal balance) from remittances to investors. Accordingly, Wendover should have withheld a total of about \$290 in servicing fees for that loan for the 3-month period covered by our review. However, because the RTC did not provide Wendover a copy of the servicing agreement and the automated loan-servicing system did not show that the previous servicer had charged servicing fees, Wendover had no basis for withholding servicing fees.

DOF officials reported in October 1998 that the LSFO and participation loans were scheduled for sale by the end of 1998. Therefore, we did not believe that the cost and effort associated with trying to locate the remaining servicing agreements would be justified. Accordingly, we are not recommending that the FDIC take any action regarding this issue.

## **CONCLUSION**

Wendover remitted income accurately and timely and generally claimed only servicing fees and asset-related expenses that were supported and allowable under contracts 783-94-0125 and 713-94-0250 for the periods covered by our review. Although Wendover had charged unallowable servicing fees on delinquent loans, DRR officials took corrective actions and recovered the unallowable fees during the course of our audit. In addition, the OIG could not verify the accuracy of servicing-fee income that Wendover collected from investors because neither Wendover nor the FDIC had copies of the loan-servicing agreements for LSFO and participation loans. However, because DRR was planning to dispose of those loans by the end of 1998, we did not believe that it would be cost-effective to try to locate the servicing agreements. Accordingly, we are not making any recommendations. FDIC management officials chose not to submit a written response to the draft report since there were no recommendations to address.